

# ReedSmith

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USDS SDNY  
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May 12, 2014

By Fax (212-805-7949)

Hon. P. Kevin Castel  
 United States District Court  
 Southern District of New York  
 500 Pearl Street  
 New York, NY 10007

*Appl'd from  
denied.  
ADVISED  
IT  
SOS  
5-12-14*

Re: Robyn Fenty and Tourihanna LLC v. Berdon LLP, Michael Mitnick,  
 and Peter Gounis, No. 12 Civ. 5207 (PKC)

Dear Judge Castel:

**MEMO ENDORSED**

As you know, we represent Plaintiffs in the above-captioned action and write jointly with counsel for Defendants to seek the Court's permission for the parties to retrieve certain confidential documents that were previously submitted to chambers for *in camera* review in connection with previously-filed motions that have since been dismissed as moot, following the resolution and dismissal of this case.

Specifically, prior to the resolution of this matter and in connection with briefing of Defendants' motions for summary judgment and to strike Plaintiffs' jury demand (the "Motions"), Your Honor issued orders dated November 26, 2013 and December 2, 2013, approving the parties' request to file a consolidated motion to seal after full submission of the Motions, and, pending the adjudication of the motion to seal, to submit all exhibits to the Motions to the Court for *in camera* review (the "Orders," copies of which are attached hereto as Exhibit A). Pursuant to the Orders, the Parties hand-delivered all exhibits relating to the Motions to Your Honor's chambers on November 27, 2013 and December 23, 2013 (the deadlines for submission of moving and opposition papers relating to the Motions). Now that the Motions were dismissed as moot and this matter fully resolved, the parties jointly request permission to retrieve the documents for return to the parties.

We thank the Court for its attention to this matter.

Respectfully,

Casey D. Laffey

cc: All defense counsel (by email)

## **Exhibit A**

NOV. 26. 2013 Case 1:12-cv-05207-PKC Document 63 Filed 11/26/13 Page 10 of 21 p. 2

**MEMO ENDORSER**

November 26, 2013

USDS SDNY  
DOCUMENT  
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DATE FILED: 11/26/13

(212) 985-5885  
Nicole.Liebman@wilsonelser.com**BY FACSIMILE (212) 805-7949**

Honorable P. Kevin Castel  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Robyn Penty and Townhanna LLC v. Berdon LLP, Michael Minick,  
and Peter Gouris*  
Cv. No. 12 CV 5207 (PKC)

*course proposed  
Layosch issues is  
acceptable.*

S O OPENED  
JJS 11/26/13  
11-26-13

Dear Judge Castel:

Today is the deadline for defendants to file their motions for summary judgment and to strike plaintiffs' jury demand. Plaintiffs have asked us not to publicly file the papers until they have had a further opportunity to determine whether any of the exhibits accompanying our motions should, in their view, be filed under seal. Accordingly, in light of plaintiffs' request (and pending further order of the Court), we have advised plaintiffs that we will delay filing the briefs until close of business Tuesday. If plaintiffs inform us Tuesday that they intend to file a motion to seal any of the documents, we would anticipate filing all except those documents, pending further order of the Court.

Because plaintiffs' concerns about documents preclude defendants from filing the briefs electronically, defendants will serve their motions to plaintiffs today, and will deliver the motions to the Court for in camera review tomorrow.

We will, of course, comply with any direction of the Court, if it wishes that this be handled in a manner different from the outline above.

Respectfully submitted,

Wilson Elser Moskowitz Edelman &amp; Dicker LLP

Nicola B. Liebman

cc: Casey D. Laffey, Esq.

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-2-

Edward J. Estrada, Esq.  
James M. Andrews, Esq.  
Christopher J. Marino, Esq.  
Peter J. Larkin, Esq.  
David S. Elsen, Esq.

To: P. Kevin Castel

Case 1:12-cv-05207-PKC Document 62 Filed 12/03/13 Page 1 of 2 From: Linc Zhou

**ReedSmith**

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December 2, 2013

**MEMO ENDORSED**By Fax (212) 805-7949

Hon. P. Kevin Castel  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Robyn Fenty and Tourihanna LLC v. Berdon LLP, Michael Mitnick,  
and Peter Gounis, No. 12 Civ. 5207 (PKC)

Dear Judge Castel:

As the Court knows, by Order dated November 12, 2013, the Court entered a revised briefing schedule for Defendants' motions for summary judgment and to strike Plaintiffs' jury demand (the "Motions"). Under that briefing schedule, the Defendants' moving papers were to be filed by November 26, 2013, Plaintiffs' opposition papers must be filed by December 20, 2013, and Defendants' reply papers must be filed by January 21, 2014. Further, by Order dated November 26, 2013, Your Honor granted Plaintiffs' request for Defendants to submit their moving papers to the Court *in camera*, pending the filing by Plaintiffs of a motion to seal certain exhibits contained therein that Plaintiffs had designated as confidential under the parties' Stipulated Protective Order (so ordered by the Court on October 5, 2012).

The parties have been conferring on the most convenient way to deal with the filing of potentially confidential materials that will be included in the moving, opposition, and reply papers for the Motions. Because Plaintiffs anticipate that their opposition papers will also contain certain exhibits that they believe should be sealed, and to avoid the necessity of filing three separate motions to seal (corresponding to portions of the moving, opposition, and reply papers), Plaintiffs respectfully request leave to file one consolidated motion to seal after the Motions are fully briefed. [Because the Motions will be fully briefed by January 21, 2014, Plaintiffs respectfully request until Monday January 27, 2014 to file the consolidated motion to seal]. In the meantime, the parties intend to publicly file everything related to their respective papers except the exhibits, with the exhibits being submitted to the Court *in camera*, pending adjudication of the motion to seal.

We have conferred with counsel for the Defendants and they consent to the proposed procedure.

*Appellee to Plaintiff's  
Motion to Seal  
Grant it. Porter  
most demonstrate  
satisfaction of  
the standard.  
SO ORDERED  
12-2-13*

To: P. Kevin Castel Case 1:12-cv-05207-PKC Document 104 Filed 12/03/13 Page 2 of 2 From: Line 2000

Hon. P. Kevin Castel  
December 2, 2013  
Page 2

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We thank the Court for its attention to this matter.

Respectfully,



Edward J. Estrada

cc: All defense counsel (by email)